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ENDC MEETING

Geneva, January 27, 1966

Position Paper

SAFEGUARDS ON PEACEFUL NUCLEAR FACILITIES

I. Recommended US Position:

As an important element in efforts to curb nuclear proliferation, the United States should continue actively to seek to achieve the broadest possible application of International Atomic Energy Agency or equivalent international safeguards on all peaceful nuclear facilities and activities, particularly in states which do not now possess nuclear weapons. These efforts should be pursued both at the ENDC and elsewhere. At the ENDC we should:

A. Continue to elaborate on the US statement of July 27, 1965, that "We urge that as a part of the non-proliferation effort all governments undertake to accept IAEA or equivalent international safeguards in all their peaceful nuclear activities."

B. Endeavor to strengthen the safeguards provision of the US draft non-proliferation treaty by addition of the following to the present Article III:

"Each of the non-nuclear-weapon States Party to this Treaty undertakes to accept International Atomic Energy Agency or equivalent international safeguards on all its peaceful nuclear activities.

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[Present Article III text.]

"Each of the States Party to this Treaty further undertakes to provide source or fissionable material, or specialized equipment or non-nuclear material for the processing or use of source or fissionable material or for the production of fissionable material, to non-nuclear-weapon States for peaceful purposes only if such material and equipment will be subject to International Atomic Energy Agency or equivalent international safeguards."

C. Seek further instructions should efforts to strengthen Article III prove fruitless or should the Soviets and/or one or more key potential nuclear weapon states press for deletion of even the present Article III.

D. In pursuing the above objectives, we should seek to enlist maximum support for IAEA safeguards from Latin American (especially the Mexican) and African delegations as consonant with the initiatives pending for denuclearization of their respective regions.

II. Anticipated Foreign Positions:

A. USSR

Since June, 1963, the USSR has supported the IAEA safeguards system. However, the Soviet draft non-proliferation treaty submitted to the UNGA September 24, 1965, contains no provision dealing with IAEA safeguards. In subsequent conversations, the Soviets have avoided any direct comment on the safeguards provision of the US draft treaty. To date, no nuclear facilities in the USSR or other communist states (except Yugoslavia) have been opened to IAEA inspection. The USSR would almost surely oppose any treaty provision calling for IAEA inspection on its territory, although it might conceivably agree to a provision requiring such inspection in non-nuclear states, including the Communist ones.

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B. Major US Allies

The UK has privately made clear to us that acceptance of international safeguards on the entire UK peaceful nuclear program would present them with serious problems, because it would be very difficult and costly for them to separate their military and peaceful nuclear activities. Canada has recently adopted a policy of requiring safeguards on all new contracts for nuclear materials exports, and spoke October 19 in the UNGA in support of an IAEA provision in a non-proliferation treaty. Italy is already committed to Euratom safeguards, which cover all peaceful nuclear activities in the territories of Euratom member states. In Western Four private discussions in Geneva last July, Canada, Italy, and the UK all suggested that any IAEA safeguards provision in the treaty might be less acceptable to non-nuclear states if it applied only to them. Italy, however, tabled at the ENDC on September 14, 1965, a "model" unilateral non-acquisition declaration which included a provision that the declaring state "will accept the application of IAEA or equivalent international safeguards on its nuclear activities." The only states in the world which have as yet invited the IAEA to inspect any of their indigenous peaceful nuclear facilities are the US and the UK.

C. Non-Aligned Eight

In the recent UNGA, support for the inclusion of an IAEA safeguards clause in a non-proliferation treaty was expressed by Sweden (October 27) and the UAR (October 22). (Non-ENDC states which also voiced such support included the Netherlands, Tanzania, Pakistan, Kenya, Ghana, Austria, and Japan.)

Mexico took a leading role in drafting the proposed Latin American nuclear-free zone agreement, which calls for IAEA safeguards on all nuclear facilities. In Vienna, Mexico has consistently supported the IAEA safeguards system.

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Brazil has staunchly supported IAEA safeguards in Vienna since June, 1963, and is about to accept a transfer of bilateral US safeguards on Brazilian reactors to the IAEA.

Ethiopia, Nigeria, and Burma have taken little part in IAEA safeguards debates in Vienna. Nigeria abstained in the most recent vote on this question in October 1965.

India's views on safeguards are somewhat complex, as can be seen from the following.

In negotiations with India in 1962 and 1963 for building a large nuclear power plant at Tarapur with US assistance, India was finally persuaded after considerable difficulty to accept a provision for eventual transfer of safeguards on that plant to the IAEA. Two conditions, in particular, should be noted: (1) India and the United States must determine that the IAEA system is "generally consistent with the safeguards provisions" contained in the Tarapur agreement; and (2) the United States will not terminate the Tarapur agreement "unless there has been widespread acceptance, by those nations with whom it has bilateral agreements, of the implementation of safeguards by the Agency or of provisions similar to those contained in the Agreement."

On August 12, 1965, the Indian delegate to the ENDC voiced a number of misgivings about the IAEA safeguards system.

In September, 1965, India voted for approving a revised safeguards system at the IAEA General Conference in Tokyo. However, the Indian delegate there said on September 23 that even the revised system, while better than the previous system, still had a number of defects. In particular, he repeated India's previous assertions that safeguards should be placed on fuel-reprocessing plants rather than on reactors. (He also mentioned that India's third and fourth large power reactors would be built "using India's own resources" and hence presumably without safeguards.)

Inclusion in a non-proliferation treaty of a clause requiring IAEA safeguards would undoubtedly give countries such as India an additional excuse for objecting to the treaty.

III. Discussion and Background:

A. General Acceptance of IAEA Safeguards

Apart from the context of a non-proliferation treaty, efforts to persuade non-nuclear states to accept IAEA or equivalent international safeguards on all their peaceful nuclear facilities can probably best be promoted through initiatives of non-nuclear countries. Such initiatives are likely to be more successful if they are not publicly identified with the United States. The United States should therefore continue to provide them with discreet private diplomatic support.

A useful contribution to this effort, however, would be reaffirmation and elaboration in the ENDC plenary of Mr. Foster's statement of October 27 in New York that "The United States furthermore believes that international safeguards coverage should be expanded without even waiting for the conclusion of a formal non-proliferation treaty." The US should make clear publicly that we see no conflict of priorities between efforts to achieve a non-proliferation treaty and undertakings by countries to place their peaceful atomic energy programs under IAEA safeguards. We should point out that we consider that these two measures are mutually reinforcing and should be developed in parallel.

One promising context for promoting IAEA safeguards is the movement toward an African nuclear-free zone. Using the Latin American NFZ draft as an example, the Latin American and OAU states could be encouraged to announce acceptance of IAEA safeguards on all their nuclear activities. Some of the diplomatic efforts toward this end might be carried out privately in Geneva, although not necessarily as part of ENDC activities.

We are now in a stronger position than we were last July to press, both in the ENDC and elsewhere, for broader coverage of IAEA safeguards, because in September an improved safeguards system was unanimously approved in Tokyo by the IAEA General Conference, which consists of representatives of 93 countries.

B. Strengthening the IAEA Provision in the Draft Non-Proliferation Treaty

With respect to the IAEA safeguards provision in the US draft non-proliferation treaty, Mr. Foster stated in New York on October 18,

"We recommend as strong a provision on this subject as is possible in the light of the views of all those interested in acceding."

Article III of the US draft treaty as tabled August 17, 1965, in the ENDC reads as follows:

"Each of the States Party to this Treaty undertakes to cooperate in facilitating the application of International Atomic Energy Agency or equivalent international safeguards on all peaceful nuclear activities."

Article III in its present version was accepted reluctantly by the United States to permit agreement within the Western Four and in the belief that it was preferable to have only a hortatory provision than no agreed safeguards clause at all in the US draft treaty.

Efforts to strengthen Article III may encounter difficulties from Italy in particular, as well as from certain other non-nuclear-weapon states members of the ENDC. The question of the acceptability to the Soviets of any safeguards clause whatsoever in a non-proliferation treaty remains to be tested in negotiations. No recommendation is made for proposing in the treaty mandatory application

of safeguards on the peaceful activities of nuclear states, for we know this would be completely unacceptable to the Soviets, as well as to the UK.

Mandatory application of safeguards to the peaceful nuclear activities of the non-nuclear-weapon states would be the optimum solution, but it is certain to meet with objections of discrimination from among the non-nuclears. Within the Western Four, Italy, and, to a lesser degree, Canada may be expected to continue to show special sensitivity to this point, ostensibly in anticipation of the objections of other non-nuclear states. There is some doubt whether India in particular would accept the stronger language recommended. Initial non-acceptance by other delegations of the strengthening of Article III, however, should not prevent us from seeking Soviet support for our proposed changes, as appropriate. Support for our language from the Soviets could produce a change in the position of certain other delegations.

The supplier clause would strengthen the safeguards provision of the treaty significantly in the absence of agreement on mandatory application of safeguards to indigenous peaceful nuclear activities.

At the outset, Western Four agreement should be sought on the recommended strengthening of Article III. Tighter provisions for the non-nuclear states should cause no problems for the British. Expected Italian objections should be vigorously countered by stressing that a) the recommended addition to Article III entails no new obligations for Italy, whose peaceful nuclear activities are already fully covered by equivalent international (i.e., Euratom) safeguards; (b) having included a stronger safeguards clause in the "Fanfani Declaration", it would seem reasonable for Italy to accept it in the draft treaty; and c) the extent to which non-nuclear countries might be brought to accept a binding provision can only be ascertained if we have a chance to test their objections to a strengthened safeguards provision in a draft non-proliferation treaty.

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We should also explore with the Mexicans, who were mainly responsible for the proposal that IAEA safeguards be the basis of the proposed verification arrangements for a Latin American Nuclear Free Zone, whether they might take the initiative in proposing the suggested strengthening of Article III. If not, we should at least seek to ensure that they would give the proposal their strong support.

Tactical or substantive objections from various delegations may nonetheless prove sufficiently strong to prevent us from obtaining widespread acceptance of the recommended strengthening of Article III. Some delegations may simply consider the whole exercise to be a non-starter, pointing to the fact that notwithstanding the many statements made in support of IAEA safeguards during the recent UN discussions, it had still been impossible to obtain direct reference to safeguards in the non-proliferation resolution adopted by the General Assembly.

In this eventuality and also depending on the progress made--if any--in the actual negotiation of a treaty, it may still be to our advantage simply to table our proposed changes in Article III sometime prior to the recessing of the ENDC.

We should make a major effort to win support for this position by each delegation (particularly the USSR, India, the UAR, Sweden, and the other non-aligned states), by stressing the following points:

1. Any state not intending to acquire nuclear weapons should logically have no valid objection to accepting international safeguards on peaceful nuclear facilities. Such safeguards are not costly or burdensome, do not infringe on national sovereignty, do not jeopardize trade secrets, and in no way hinder peaceful nuclear activities.

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2. Many states are now planning to build power reactors which unavoidably produce large quantities of plutonium. In the absence of safeguards, suspicions are bound to arise as to the possibility that some of this plutonium may be used to make nuclear weapons. One of the chief pressures for proliferation is the suspicion that neighboring states plan to develop such weapons. If these suspicions could be dispelled through international safeguards, the incentives for proliferation would clearly be reduced. This would contribute substantially to the durability of the non-proliferation treaty, and would therefore be in the interest of all states, nuclear and non-nuclear alike.

While many delegations may accept the view that a binding safeguards provision in the treaty would be useful in curbing proliferation, some delegations may ask us why the provision cannot apply to the peaceful programs of nuclear parties as well as non-nuclear. Our response (in private discussions) should include two points:

1. While the United States would be willing to do this, opposition by the USSR would, as a practical matter, jeopardize achievement of a viable treaty.

2. Such inclusion would be an essentially meaningless gesture, because of the basic asymmetry between safeguards on peaceful facilities in nuclear states and in non-nuclear states. Acceptance of safeguards by a nuclear state on all its peaceful activities would have no real effect on the military capabilities of that state. The US has accepted safeguards on some of its facilities in order to demonstrate that safeguards in no way infringe on national sovereignty and impose no appreciable burden on the host state, as well as to assist the IAEA in training inspectors and in developing improved inspection techniques. The US, for its part, would be willing to join the other Parties in accepting safeguards on all its peaceful nuclear facilities.

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In explaining our position, we should point out that the essence of the non-proliferation treaty involves the distinction between nuclear-weapon and non-nuclear-weapon states. While it is in the interests of states of both types to contribute to the common goal of non-proliferation, by the very nature of the problem the contributions of nuclear-weapon states will have to be of a different nature from the contributions of non-nuclear-weapon states. A superficial facade of seemingly symmetrical obligations is no substitute for realistic measures which will really advance our common non-proliferation objective. Moreover, while we recognize the importance of related measures in contributing to non-proliferation objectives, we cannot agree that related measures should be a necessary step on the part of the nuclear powers to accompany the forswearing of nuclear weapons by states not possessing them. Proliferation is as much--and in some instances more--of a threat to the security of the present non-nuclear-weapon states than it is to the nuclear-weapon states. It is imperative to make progress where and when we can, and for its part the United States continues actively to seek progress on other important measures related to non-proliferation, such as a comprehensive test ban, SNDV freeze, cutoff of production and transfer of fissionable materials to peaceful uses, including the demonstrated destruction of nuclear weapons.

C. Provision for Safeguards on Exports

In Western Four consultations which preceded the tabling of the US draft treaty, the United States suggested a provision requiring safeguards on all exported nuclear material and related equipment. This provision was dropped when the UK stated it would consider such a provision unacceptable because UK peaceful and military nuclear programs are difficult to separate. The provision recommended in the present paper avoids this difficulty by dealing with exports to non-nuclear states only. The argument that this discriminates against non-nuclear states can be dealt with along the lines described in Section B above.

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In a sense, the safeguards provision on exports can be thought of as elaborating one form of implementation of Article I of the US draft treaty. However, discussions with other supplier states, e.g., the Western Suppliers meeting of June 1965 and thereafter, have made clear that not all states consider such a provision necessary to meet the requirements of Article I. A specific treaty provision on exports would contribute toward uniformity in the policies of supplier states. In the absence of such an agreement, a potential danger exists that some supplier states will seek a commercial advantage by selling nuclear material with less stringent safeguards requirements than other suppliers. Efforts to reach informal agreements along these lines, even for a limited number of major Western suppliers, have encountered rough going, perhaps because of fears that complying countries would suffer unless all suppliers cooperated. Inclusion of this provision in a treaty of world-wide scope may be the most expeditious way of getting on board all suppliers including the USSR. (In the meantime, efforts to reach such agreements outside the ENDC should continue.)

In a speech on November 15, Congressman Chet Holifield, Chairman of the Joint Committee on Atomic Energy, publicly urged that the non-proliferation treaty include a provision requiring safeguards on exports. It is believed that this view is held by a number of key senators; hence inclusion of such a provision would facilitate achieving Senate approval of the treaty.

In a speech before the Senate on January 18, 1966, Senator Pastore of the Joint Committee supported the President's efforts to achieve a non-proliferation treaty and urged in particular that Article III of the US draft treaty be strengthened.

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Safeguards on Peaceful Nuclear Facilities

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